

CALIFORNIA STATE PERSONNEL BOARD MEETING¹
801 Capitol Mall
Sacramento, California

Public Session Location - 801 Capitol Mall
Sacramento, California, Room 150
Teleconference – 320 West 4th Street
Los Angeles, CA, Suite 620

Closed Session Location - 801 Capitol Mall
Sacramento, California Room 141
Teleconference - 320 West 4th Street
Los Angeles, CA, Suite 620

FULL BOARD MEETING MINUTES²

October 5, 2004

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

1. ROLL CALL
Board Members present:

William Elkins, President
Ron Alvarado, Vice President
Sean Harrigan, Member
Anne Sheehan, Member
Maeley Tom, Member
2. REPORT OF THE EXECUTIVE OFFICER
Floyd Shimomura, Executive Officer
State Personnel Board

¹ Pursuant to Government Code section 11123, a teleconference was conducted for this meeting at 320 W. 4th Street, Los Angeles, CA.

² The Minutes for the Board can be obtained at the following Internet address:
<http://www.spb.ca.gov/calendar.htm>

The Board was advised of the following:

- A. On September 30, 2004, the Governor vetoed AB 2275, which required state agencies to report employment data on protected classes and conformed State Equal Employment Opportunity statutes to Proposition 209. However, the veto message affirmed the policy for data collection and requested that a new bill be drafted which did not include increased data collection.
 - B. On September 20, 2004, the Executive Officer and Karen Coffee were invited to the Department of Finance to discuss the California Performance Review's recommendation that the State Personnel Board (SPB) and the Department of Personnel Administration (DPA) be combined in a new Division of Human Resources within a new Office of Management and Budget. DPA and the State and Consumer Services Agency also participated in the discussion. Also, on September 21, 2004, Chief Counsel Elise Rose, testified at the Public Employees Relations Board (PERB) hearing, which considered structural changes to PERB, including one proposal which would combine PERB with SPB.
 - C. The SPB's personnel audit of the Secretary of State's Office is in its final stages of interviews.
 - D. The State and Consumer Services Agency has told the SPB that most of its budget change proposals will not be considered this fall but in the spring due to the possible CPR reorganization of the SPB and DPA.
 - E. The SPB staff is working on activating its teleconferencing capabilities, including for SPB Board meetings.
3. REPORT OF THE CHIEF COUNSEL – Elise Rose

The Chief Counsel Reported on:

Litigation:

- A. Connerly v. SPB - Connerly has filed a petition for peremptory writ of mandate to enforce award of attorney's fees.

- B. Department of Motor Vehicles v. SPB (Satkowski) - Further hearing set for Friday, October 8, 2004, on discovery issue. The court denied motion for stay.
- C. Cornejo v. Dille v. SPB (Department of Social Services) - Hearing set for October 7, 2004, on petitioner's motion for stay of SPB proceedings in this whistleblower case.
- D. Cornwell v. SPB (California Highway Patrol [CHP]) - The CHP was ordered to abide by the decision of the SPB in this matter.
- E. Coehlo v. SPB (Department of Fish and Game) - Department of Fish and Game has obtained a stay of the Board's order in this case and has filed a Petition for Writ of Mandate to challenge Board's decision.
- F. Reynolds v. SPB (Dept. of Youth Authority) - Reynolds has filed an Appeal of the superior court's order denying Writ in this matter.

Other:

State Employee Mediation Program (SEMP) – The Department of General Services ruled in the Board's favor on a protest to the request for proposal process, clearing the way for the Board to hire its senior mediators.

Interviews are under way to fill the position of Director of SEMP, vacated by Matilda Bannerman-Richter, when she accepted a promotion to the position of head of the Board's Civil Rights Office. SEMP will now reside under the auspices of the Board's Civil Rights Office, but the program will remain open to resolving a wide variety of workplace disputes.

Chief Counsel Elise Rose attended a meeting of the Public Employment Relations Board (PERB), where the PERB Board was accepting input on the California Performance Review Report as it pertained to them. Ms. Rose spoke of the several options discussed by the SPB Board, including one that would combine PERB staff with SPB staff. The unions expressed their preference for PERB remaining completely independent from SPB and the Labor and Economic Development Agency.

4. NEW BUSINESS

(Items may be raised by Board Members for scheduling and discussion at future meetings.)

No new business

5. REPORT ON LEGISLATION – Sherry Hicks

The Board was advised of the following:

A. The Executive Officer reported that the Board's sponsored legislation, AB 2275, was vetoed by the Governor. The Veto Message encouraged the State and Consumer Services Agency to work with the proponents of the legislation in drafting language that would meet the desired goal of all interested parties.

B. The Director of Legislation has forwarded 2005 legislative concepts to the State and Consumer Services Agency.

6. ORAL ARGUMENT

Oral Argument in the matter of DEBRA GREENE, CASE NO. 03-0621A. Appeal from dismissal. Department of Motor Vehicles.

Persons Participating:

Kate Krumenacker, Sr. Staff Counsel, Department of Motor Vehicles; representing department
Christopher Tooney, Labor Relations Representative, California State Employees Association, representing appellant

CLOSED SESSION OF THE STATE PERSONNEL BOARD

7. EMPLOYEE APPOINTMENTS, DISCIPLINARY MATTERS, AND OTHER APPEALS

Deliberations to consider matter submitted at prior hearing.
[Government Code Sections 11126(d), 18653.]

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

8. ORAL ARGUMENT
Oral Argument in the matter of CONNIE JOHNSON, CASE NO. 03-2620R. Appeal from 30-calendar-days suspension. Employment Development Department.

Persons Participating:

Dana Flannigan-McBeth, Staff Counsel, Employment Development Department, representing department
Fernanco Acosta, Staff Attorney, California State Employees Association, representing appellant

CLOSED SESSION OF THE STATE PERSONNEL BOARD

9. EMPLOYEE APPOINTMENTS, DISCIPLINARY MATTERS, AND OTHER APPEALS
Deliberations to consider matter submitted at prior hearing. [Government Code Sections 11126(d), 18653.]

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

10. ORAL ARGUMENT
Oral Argument in the matter of DENNIS UYEDA, CASE NO. 03-2396A. Appeal from five-working-days suspension. Latent Print Analyst II. Department of Justice.

Persons Participating:

Kristin M. Daily, Deputy Attorney General, Department of Justice, representing department
Gary M. Messing, Attorney at Law, representing appellant

CLOSED SESSION OF THE STATE PERSONNEL BOARD

11. EMPLOYEE APPOINTMENTS, DISCIPLINARY MATTERS, AND OTHER APPEALS
Deliberations to consider matter submitted at prior hearing. [Government Code Sections 11126(d), 18653.]

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

12. Informational Hearing – To provide an opportunity for interested parties to provide testimony regarding the California Performance Review's recommendations for the structure and organizational placement of the state's human resources function, including the State Personnel Board. These recommendations may be reviewed at the CPR website at www.cpr.ca.gov in the reports entitled, "Form Follows Function" (Chapter 10) and "Issues and Recommendations, Part B" (Issue SO41).

Persons Participating:

Robert Thompson, Public Employees Relations Board
Robin Corralejo, EEO Officer, CalPERS
Kathleen O'Conner, Sr. Relations Representative, California State Employees Association

CLOSED SESSION OF THE STATE PERSONNEL BOARD

13. DELIBERATION ON ADVERSE ACTIONS, DISCRIMINATION COMPLAINTS, AND OTHER PROPOSED DECISIONS SUBMITTED BY ADMINISTRATIVE LAW JUDGES
Deliberations on matters submitted at prior hearing, on proposed decisions, petitions for rehearing, rejected decisions, remanded decisions, submitted decisions, and other matters related to cases heard by administrative law judges of the State Personnel Board or by the Board itself. [Government Code Sections 11126 (d), and 18653 (2).]
14. PENDING LITIGATION
As discussion of pending litigation in open session would be prejudicial, the Board conducted closed session conferences with legal counsel and received advice as necessary regarding pending litigation as listed in the agenda. [Government Code Sections 11126 (e)(1), 18653.]
15. RECOMMENDATIONS TO THE LEGISLATURE
The Board deliberated on recommendations to the Legislature as listed in the agenda. [Government Code Section 18653.]

16. RECOMMENDATIONS TO THE GOVERNOR
The Board deliberated on recommendations to the Governor.
[Government Code Section 18653.]

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

On Adjournment:

17. DISCUSSION OF COMING BOARD MEETING SCHEDULE
OF OCTOBER 19, 2004

BOARD ACTIONS

18. ADOPTION OF THE STATE PERSONNEL BOARD
SUMMARY MINUTES OF SEPTEMBER 1-2, 2004 AND
SEPTEMBER 14, 2004
ACTION: Adopted on October 5, 2004
VOTE: Elkins, Alvarado, Harrigan, Sheehan and
Tom - Aye
19. ACTION ON SUBMITTED ITEMS
(See Minutes page 24)
These items have been taken under submission by the State
Personnel Board at a prior meeting and may be before the
Board for a vote at this meeting. This list does not include
evidentiary cases, as those cases are listed separately by
category on this agenda under Evidentiary Cases.
20. EVIDENTIARY CASES
The Board Administrative Law Judges conducts
Evidentiary hearings in appeals that include, but are not
limited to, adverse actions, medical terminations, demotions,
discrimination, reasonable accommodations, and
whistleblower complaints.
On October 5, 2004, the Board adopted by majority vote
(Elkins, Alvarado, Harrigan, Sheehan and Tom – Aye), in the
following decisions presented by Elise Rose, Chief Counsel,
State Personnel Board.

A. BOARD CASES SUBMITTED

These cases have been taken under submission by the State Personnel Board at a prior meeting and may be before the Board for a vote at this meeting.

MARTIN HERNANDEZ, CASE NO. 02-4449A
Appeal from demotion
Correctional Sergeant
Calipatria State prison – Imperial
Department of Corrections
NO ACTION

CONNIE JAMES, CASE NO. 03-3136A
Appeal from fifteen-working-days
suspension
Accounting Technician
Employment Development Department
ACTION: Fifteen-working-days suspension sustained

HUGO LANDEROS, CASE NO. 03-3190A*
Appeal from dismissal
Employment Program Representative
Employment Development Department
ACTION: The Board issued a precedential decision denying motion to dismiss and remanding for hearing on the merits.

JACQUELYN MCCARVER, CASE NO. 03-0669A
Appeal from demotion
Correctional Sergeant
Rainbow Conservation Center – Fallbrook
Department of Corrections
NO ACTION

* Adopted as Precedential Decision #04-04.

NOTE: Precedential Decisions of the State Personnel Board can be obtained at the following Internet address: www.spb.ca.gov under “Decisions.”

MARYLAND PAGE, CASE NO. 03-3703A

Appeal from five-percent reduction
in salary for twelve months

Correctional Officer

California State Prison – Blythe

Department of Corrections

ACTION: Five-percent reduction in salary for twelve
months modified to five-percent reduction in salary for
six months

GARY WHALEY, CASE NO. 03-1420A

Appeal from discrimination

Employment Program Representative

Employment Development Department

NO ACTION

B. CASES PENDING

- Oral Arguments

These cases are on calendar to be argued at this
meeting or to be considered by the Board in closed
session based on written arguments submitted by the
parties.

DEBRA GREENE, CASE NO. 03-0621A

Appeal from dismissal

Motor Vehicle Field Representative

Department of Motor Vehicles

ACTION: Submitted.

CONNIE JOHNSON, CASE NO. 03-2620R

Appeal from 30-calendar-days suspension

Employment Program Representative

Employment Development Department

ACTION: Submitted.

DENNIS UYEDA, CASE NO. 03-2396A

Appeal from five-working-days suspension

Latent Print Analyst II

Department of Justice

ACTION: Submitted.

C. CHIEF COUNSEL RESOLUTIONS

LUIS AVINA, CASE NO. 04-0273

Appeal from demotion

Painter

California State University - Fresno

ACTION: The Board issued a resolution that the Motion from respondent to stay proceedings be granted; that the hearing date be vacated, and that the matter be set for oral argument before the Board.

GEORGE LATHROP, CASE NO. 01-0684E

Appeal from denial of reasonable accommodation

Cook I

California Conservation Corps

ACTION: The Board adopted a resolution denying request for order to show cause.

SALVADOR OROPEZA, CASE NO. 02-2168

Appeal from dismissal

Office Technician (Typing)

Department of Transportation

ACTION: The Board adopted a resolution denying request for order to show cause.

- Court Remands

These cases have been remanded to the Board by the court for further Board action.

NONE

- Stipulations

These stipulations have been submitted to the Board for Board approval, pursuant to Government Code, section 18681.

REANNIE ROBINSON, CASE NO. 01-2972

Appeal from termination without fault

Plant Electrical Apprentice

Department of Water Resources

ACTION: On October 5, 2004, the Board approved a Stipulation for Settlement.

D. ADMINISTRATIVE LAW JUDGE'S (ALJ) PROPOSED DECISIONS

- Proposed Decisions

These are ALJ proposed decisions submitted to the Board for the first time.

LANA ANDREWS, CASE NO. 04-0767
Appeal from 15-working-days suspension
Officer
California Highway Patrol
ACTION: 15-working-days suspension
modified to five- working-days suspension

GEORGE BECERRA, CASE NO. 04-1557
Appeal from a five-percent reduction in salary
for 12 months
Correctional Sergeant
North Kern State Prison – Delano
Department of Corrections
ACTION: Five-percent reduction in salary for
12 months revoked.

LESLIE BLANKS, CASE NO. 04-1484
Appeal from termination of Career Executive
Assignment
Chief Deputy Warden
California Men's Colony – San Luis Obispo
Department of Corrections
ACTION: Termination of Career Executive
Assignment sustained.

ERIC CAMPBELL, CASE NO. 04-0642
Appeal from three-workdays suspension,
Program Technician
California State Compensation Insurance Fund
ACTION: Three-working-days suspension
sustained.

CHRISTINA KEATING, CASE NO. 99-5136B
Appeal for determination of salary,
benefits and interest
Disability Insurance Program Representative
Employment Development Department
ACTION: Determination of back salary, benefits
and interest, granted.

JOYCE KHAN, CASE NO. 02-2870
Appeal from dismissal
Psychiatric Technician Assistant
Department of Developmental Services
ACTION: Dismissal sustained.

DAVID MERAZ, CASE NO. 04-1242
Appeal from five-percent reduction
in salary for three months
Correctional Officer
Calipatria State Prison – Calipatria
Department of Corrections
ACTION: Five-percent reduction in salary for three
months sustained.

EARL MYKLES, CASE NO. 04-0250
Appeal from ten-working-days suspension
Workers' Compensation Claims Adjuster
State Compensation Insurance Fund
ACTION: Ten-working-days suspension sustained.

CAESAR NELSON, CASE NO. 04-1522
Appeal from ten-percent reduction
in salary for six months
Correctional Sergeant
North Kern State Prison - Delano
Department of Corrections
ACTION: Ten-percent reduction in salary for
six months sustained.

PAUL REEDER, CASE NO. 04-0570
Appeal from 30-working-days suspension
Correctional Officer
Richard J. Donovan Correctional Facility
Department of Corrections
ACTION: 30-working-days suspension
sustained.

SAMUEL SWEENEY, CASE NO. 04-0794
Appeal from 20-calendar-days suspension
Correctional Officer
California Institution for Men – Chico
Department of Corrections
ACTION: Administrative Law Judge's proposed
decision rejected by Board. Board to decide case
itself.

VICTOR TOVAR, CASE NO. 04-1035
Appeal from two-working-days suspension
Public Safety Dispatcher II
Department of the California Highway Patrol
ACTION: Two-working-days suspension
sustained.

REGINALD WEST, CASE NO. 04-0152
Appeal from dismissal
Psychiatric Technician
Department of Mental Health
ACTION: Dismissal sustained.

- Proposed Decisions Taken Under Submission
At Prior Meeting
These are ALJ proposed decisions taken under
submission at a prior Board meeting, for lack of
majority vote or other reason.

NONE

- Proposed Decisions After Board Remand

JOHN ELIZALDE, CASE NO. 04-0299
Appeal from five-percent reduction in salary for
three months
Correctional Officer
Wasco State Prison - Wasco
Department of Corrections
ACTION: Five-percent reduction in salary for
three months revoked.

VALLERIE GODFREY, CASE NO. 98-1070R
Appeal from dismissal
Youth Correctional Counselor
California Youth Authority
ACTION: Dismissal revoked.

- Proposed Decisions After SPB Arbitration

NONE

E. PETITIONS FOR REHEARING

- ALJ Proposed Decisions Adopted By The
Board
The Board will vote to grant or deny a petition
for rehearing filed by one or both parties,

regarding a case already decided by the Board.

LINDA PARDY, CASE NO. 03-1376EP
Appeal of reasonable accommodation
Senior Environmental Scientist
Water Resources Control Board
ACTION: Petition for rehearing filed by
respondent denied.

- Whistleblower Notice of Findings
The Board will vote to grant or deny a petition for rehearing filed by one or both parties, regarding a Notice of Findings issued by the Executive Officer under Government Code, section 19682 et seq. and Title 2, California Code of Regulations, section 56 et seq.

SCOTT O'HARA, CASE NO. 04-0428P
Appeal from whistleblower retaliation
Associate Management Auditor
State Controllers Office.
ACTION: Petition for rehearing filed by
appellant denied.

GREG SCHILLER, CASE NO. 02-2569P
Appeal from whistleblower retaliation
Research Program Specialist II
Department of Mental Health
ACTION: Petition for rehearing filed by
appellant denied.

F. PENDING BOARD REVIEW

These cases are pending preparation of transcripts, briefs, or the setting of oral argument before the Board.

ANN R. ABIERAS, CASE NO. 04-0531A
Appeal from ten-percent reduction
in salary for twelve months
Psychiatric Technician Assistant
Department of Developmental Services
NO ACTION

DANNY BOYD, CASE NO. 03-1537A
Appeal from dismissal
Youth Correctional Officer
California Youth Authority - Chino
NO ACTION

NICHOLAS COMAITES, CASE NO. 03-0062A
Appeal from official reprimand
Correctional Counselor II
Department of Corrections
AND PAUL WARD, CASE NO. 03-0332A
Appeal from official reprimand
Correctional Administrator
Department of Corrections
NO ACTION

EVELYN B. CORPUS, CASE NO. 04-0529A
Appeal from ten-percent reduction in
salary for twelve months
Psychiatric Technician Assistant
Department of Developmental Services
NO ACTION

NESSLIN CRUZ, CASE NO. 03-1824
Appeal from ten-work-day suspension
Employment Program Representative
(Permanent Intermittent)
Employment Development Department
NO ACTION

PRISCILA CRUZ, CASE NO. 04-0554E
Appeal from discrimination complaint
Clinical Laboratory Scientist
California Medical Facility - Vacaville
Department of Corrections
NO ACTION

DOREATHA FLEMING, CASE NO. 03-2274
Appeal from dismissal
Motor Vehicle Field Representative
Department of Motor Vehicles
NO ACTION

JOHN FLORES, CASE NO. 03-2588E
Appeal of retaliation
Hospital Peace Officer I
Department of Mental Health
NO ACTION

RICHARD HARMON, CASE NO. 03-3739
Appeal from dismissal
Psychiatric Technician Assistant
Department of Developmental Services
NO ACTION

ROYCE HENSON, CASE NO. 02-3501E
Appeal from retaliation complaint
Staff Services Manager II (Supervisor)
Department of forestry and Fire Protection
NO ACTION

HAJI JAMEEL, CASE NO. 04-0330
Appeal from dismissal
Supervising Transportation Engineer
California Public Utilities Commission
NO ACTION

EDWARD LIMON, CASE NO. 04-0233
Appeal from dismissal
Parole Agent I
Department of the Youth Authority
NO ACTION

LEIJANE OGAWA, CASE NO. 03-2943A
Appeal from discrimination
Office Assistant (General)
Department of Transportation
NO ACTION

VIRGINIA PARKER, CASE NO. 03-0325A
Appeal from demotion
Correctional Lieutenant
Ironwood State Prison – Blythe
Department of Corrections
NO ACTION

KIM RITTENHOUSE, CASE NOS. 03-3541A &
03-3542A
Appeal from denial of reasonable
accommodation and from constructive medical
termination
Office Technician (General)
Department of Fish and Game
NO ACTION

PEARLIE BLEDSOE-TOWNES, CASE NO.
03-2966A
Appeal from denial of request for reasonable
Accommodation
Correctional Sergeant
Central California Women's Facility –
Chowchilla
Department of Corrections
NO ACTION

21. RESOLUTION EXTENDING TIME UNDER GOVERNMENT
CODE SECTION 18671.1 EXTENSION
(See Minutes Pages 26-27)

22. NON-EVIDENTIARY CASES

On October 5, 2004 the Board adopted by majority vote
(Elkins, Alvarado, Harrigan, Sheehan and Tom) the following
decisions presented by Elise Rose, Chief Counsel, State
Personnel Board.

A. WITHHOLD APPEALS

(Cases with hearings)

JON JOSCELYN, CASE NO. 03-2363

Classification: Correctional Officer

Department: Corrections

ACTION: Denied

THOMAS NAVARRETTE , CASE NO. 03-2333

Classification: Correctional Officer

Department: Corrections

ACTION: Denied

(Cases without hearings)

RICHARD BURLEY, CASE NO. 03-2481

Classification: Correctional Officer

Department: Corrections

ACTION: DENIED

DAVEY FRESCAS, CASE NO. 03-0966

Classification: Correctional Officer

Department: Corrections

ACTION: DENIED

KEVIN HICKS, CASE NO. 03-3183

Classification: Correctional Officer

Department: Corrections

ACTION: DENIED

LEROY JACKSON, NO. 03-3552

Classification: Correctional Officer

Department: Corrections

ACTION: DENIED

DAMIAN LOVE, CASE NO. 03-2645
Classification: Correctional Officer
Department: Corrections
ACTION: DENIED

YURITZA NARANJO, CASE NO. 03-2423
Classification: Correctional Officer
Department: Corrections
ACTION: DENIED

PABLO PAREDES, CASE NO. 03-2519
Classification: Correctional Officer
Department: Corrections
ACTION: DENIED

VANESSA PASSALACQUA, CASE NO. 03-3215
Classification: Medical Technical Assistant
Department: Corrections
ACTION: GRANTED

RUBEN SANCHEZ, CASE NO. 03-2739
Classification: Correctional Officer
Department: Corrections
ACTION: DENIED

SHANNON TABARI, CASE NO. 03-3561
Classification: Parole Agent
Department: Corrections
ACTION: DENIED

MARCEL TILLMAN, CASE NO. 03-2419
Classification: Correctional Officer
Department: Corrections
ACTION: DENIED

DAMON VEREEN, CASE NO. 03-2510
Classification: Cadet, CHP
Department: California Highway Patrol
ACTION: DENIED

RONALD WOLFE, CASE NO. 03-2514
Classification: Correctional Officer
Department: Corrections
ACTION: DENIED

B. MEDICAL AND PSYCHOLOGICAL SCREENING
APPEALS

SCOTT HENDRY; CASE NO. 03-2500

Classification: Correctional Officer

Department: Corrections

ACTION: DENIED

ALLEN ROBLES, CASE NO. 03-2613

Classification: Correctional Officer

Department: Corrections

ACTION: DENIED

OSWALDO SOTO, CASE NO. 03-1187

Classification: Correctional Officer

Department: Corrections

ACTION: DENIED

BRANDON WAINWRIGHT, CASE NO. 03-1668

Classification: Cadet

Department: California Highway Patrol

ACTION: GRANTED

C. EXAMINATION APPEALS - NONE
MINIMUM QUALIFICATIONS - NONE
MERIT ISSUE COMPLAINTS

Cases heard by a Staff Hearing Officer, a managerial staff member of the State Personnel Board or investigated by Appeals Division staff. The Board will be presented recommendations by a Staff Hearing Officer or Appeals Division staff for final decision on each appeal.

(Merit Issue Cases)

MICHAEL OKEY, CASE NO. 03-3062

Classification: Senior Architect

Department: Transportation

ACTION: DENIED

PHIL VALENTI, CASE NO. 02-3834X

Classification: Regional Manager

Department: Industrial Relations (DIR)

ACTION: DENIED

D. RULE 212 OUT-OF-CLASS APPEALS - NONE
VOIDED APPOINTMENT APPEALS - NONE
RULE 211 APPEALS - NONE

E. REQUEST TO FILE CHARGES CASES
PETITIONS FOR REHEARING CASES - NONE

MARIE DOUGLAS, CASE NO. 03-1930

Classification: Research Analyst

Department: Transportation

ACTION: DENIED

F. PSYCHOLOGICAL SCREENING CASES

Cases reviewed by Appeals Division staff, but no hearing was held. It is anticipated that the Board will act on these proposals without a hearing.

STEVEN COMER, CASE NO. 04-1861

Classification: Correctional Officer

Department: Corrections

ACTION: GRANTED

PETER NHAN, CASE NO. 04-1584

Classification: Correctional Officer

Department: Corrections

ACTION: GRANTED

JESUS ORTEGA, CASE NO. 04-1629

Classification: Correctional Officer

Department: Corrections

ACTION: GRANTED

23. NON-HEARING CALENDAR

The following proposals are made to the State Personnel Board by either the Board staff or Department of Personnel Administration staff. It is anticipated that the Board will act on these proposals without a hearing.

ACTION: On October 5, 2004, the Board adopted the following decisions, presented by Karen Coffee, Chief, Merit Employment and Technical Resources Division.

VOTE: Elkins, Alvarado, Harrigan, Sheehan, Tom - Aye

(A) FISH AND GAME WARDEN SERIES

The Department of Fish and Game (DFG) is proposing the following revisions to the Fish and Game Warden series specification: the class titles are being revised

for consistency; revisions to the class specification to incorporate and update new laws regarding domestic violence and prior use of hard drugs by the applicant; revise the Minimum Qualifications to add a pattern whereby current peace officers can enter the class and obtain the necessary training to perform the duties of a law enforcement officer; abolishing the classes of Lieutenant, Fish and Game Patrol Boat and Captain, Fish and Game Patrol Boat.

ACTION: Retracted from agenda by State Personnel Board staff. Not for Board consideration.

(B) INSURANCE RATE ANALYST

The Department of Insurance (DOI) proposes to consolidate classes into a series specification of Insurance Rate Analyst, Department of Insurance: Insurance Rate Analyst; Associate Insurance Rate Analyst; Senior Insurance Rate Analyst; and Supervising Insurance Rate Analyst. In addition DOI proposes broadening the minimum qualifications to improve recruitment efforts as well as updating the scope, definition, knowledge and abilities of the classes in the proposed series specification, Insurance Rate Analyst, Department of Insurance.

ACTION: Retracted from agenda by State Personnel Board staff. Not for Board consideration.

(C) PRESIDING WORKERS' COMPENSATION JUDGE

The Department of Industrial Relations (DIR) is proposing the following minor specification revisions to the class of Presiding Workers' Compensation Judge: incorporate the use of the classification within the department's district offices; and updating the knowledge and abilities sections of the specification to reflect current language.

ACTION: Adopted.

24. STAFF CALENDAR ITEMS FOR BOARD INFORMATION

NONE

25. CAREER EXECUTIVE ASSIGNMENT (CEA) CATEGORY ACTIVITY

This section of the Agenda serves to inform interested individuals and departments of proposed and approved CEA position actions.

A. REQUESTS TO ESTABLISH NEW CEA POSITIONS
CURRENTLY UNDER CONSIDERATION

(1) CHIEF, OFFICE OF AUDIT SERVICES

The Department of General Services proposes to allocate the above position to the CEA category. The Chief, Office of Audit Services is the primary advisor to the Department of General Services Director and executive management team on departmental audit and internal control structure policy matters.

(2) DEPUTY DIRECTOR, OFFICE OF PROBLEM GAMBLING

The Department of Alcohol and Drug Programs proposes to allocate the above position to the CEA category. The Deputy Director, Office of Problem Gambling is responsible for development of department-wide policies pertaining to the development and implementation of statewide strategies of effectively manage and direct the challenging and evolving needs of problem gambling, including intervention, prevention, and treatment services.

(3) SPECIAL COUNSEL TO THE COMMISSIONER

The Department of Insurance proposes to allocate the above position to the CEA category. The Special Counsel to the Commissioner provides legal and policy advice and counsel to the Insurance Commissioner concerning workers' compensation and related litigation.

(4) SPECIAL ASSISTANT TO THE DIRECTOR

The Department of Youth Authority proposes to allocate the above position to the CEA category. The Special Assistant to the Director will provide a high level of confidential, administrative services through lower level administrators while independently dealing with a variety of complex and sensitive issues.

(5) DEPUTY DISTRICT DIRECTOR, CENTRAL REGION, ENVIRONMENTAL PLANNING

The California Department of Transportation proposes to allocate the above position to the CEA category. The Deputy District Director, Central

Region, Environmental Planning plans, provides policy direction and manages the Central Region Environmental Program.

- (6) DISTRICT 6, DEPUTY DISTRICT DIRECTOR, PLANNING & LOCAL ASSISTANCE PROGRAMS
The California Department of Transportation proposes to allocate the above position to the CEA category. The District 6, Deputy District Director, Planning & Local Assistance Programs develops and implements policies related to transit and multi-modal strategic planning on the state highway system.

B. EXECUTIVE OFFICER DECISIONS REGARDING REQUESTS TO ESTABLISH NEW CEA POSITIONS

NONE

ACTION: Noted

26. WRITTEN STAFF REPORT FOR BOARD INFORMATION

NONE

27. PRESENTATION OF EMERGENCY ITEMS AS NECESSARY

A D J O U R N M E N T

SUBMITTED

1. TEACHER STATE HOSPITAL (SEVERELY), ETC. Departments of Mental Health and Developmental Services. (Hearing held December 3, 2002)

NO ACTION

2. VOCATIONAL INSTRUCTOR (SAFETY)(VARIOUS SPECIALTIES). Departments of Mental Health and Developmental Services. (Hearing held December 3, 2002)

NO ACTION

3. TELEVISION SPECIALIST (SAFETY)
The Department of Corrections proposes to establish the new classification Television Specialist (Safety) by using the existing Television Specialist class specification and adding "Safety" as a parenthetical to recognize the public aspect of their job, additional language will be added to the Typical Tasks section of the class specification and a Special Physical Characteristics section will be added. (Presented to Board March 4, 2003)

NO ACTION

4. HEARING – PSC #04-03
Appeal of the California State Employees Association from the Executive Officer's April 15, 2004, Approval of Master Contracts between the California Department of Corrections and Staffing Solutions, CliniStaff, Inc., Staff USA, Inc., CareerStaff Unlimited, MSI International, Inc., Access Medical Staffing & Service, Drug Consultants, Infinity Quality Services Corporation, Licensed Medical Staffing, Inc., Morgan Management Services, Inc., Asereth Medical Services, and PrideStaff dba Rx Relief. (Presented to Board August 12, 2004)

NO ACTION

NOTICE OF GOVERNMENT CODE § 18671.1 RESOLUTION

Since Government Code section 18671.1 requires that cases pending before State Personnel Board Administrative Law Judges (ALJ's) be completed within six months or no later than 90 days after submission of a case, whichever is first, absent the publication of substantial reasons for needing an additional 45 days, the Board hereby publishes its substantial reasons for the need for the 45-day extension for some of the cases now pending before it for decision.

An additional 45 days may be required in cases that require multiple days of hearings, that have been delayed by unusual circumstances, or that involve any delay generated by either party (including, but not limited to, submission of written briefs, requests for settlement conferences, continuances, discovery disputes, pre-hearing motions). In such cases, six months may be inadequate for the ALJ to hear the entire case, prepare a proposed decision containing the detailed factual and legal analysis required by law, and for the State Personnel Board to review the decision and adopt, modify or reject the proposed decision within the time limitations of the statute.

Therefore, at its next meeting, the Board will issue the attached resolution extending the time limitation by 45 days for all cases that meet the above criteria, and that have been before the Board for less than six months as of the date of the Board meeting.

GOVERNMENT CODE § 18671.1 RESOLUTION

WHEREAS, Section 18671.1 provides that, absent waiver by the appellant, the time period in which the Board must render its decision on a petition pending before it shall not exceed six months from the date the petition was filed or 90 days from the date of submission; and

WHEREAS, Section 18671.1 also provides for an extension of the time limitations by 45 additional days if the Board publishes substantial reasons for the need for the extension in its calendar prior to the conclusion of the six-month period; and

WHEREAS, the Agenda for the instant Board meeting included an item titled "Notice of Government Code § 18671.1 Resolution" which sets forth substantial reasons for utilizing that 45-day extension to extend the time to decide particular cases pending before the Board;

WHEREAS, there are currently pending before the Board cases that have required multiple days of hearing and/or that have been delayed by unusual circumstances or by acts or omissions of the parties themselves;

NOW, THEREFORE, BE IT RESOLVED AND ORDERED that the time limitations set forth in Government Code section 18671.1 are hereby extended an additional 45 days for all cases that have required multiple days of hearing or that have been delayed by acts or omissions of the parties or by unusual circumstances and that have been pending before the Board for less than six months as of the date this resolution is adopted.

* * * * *

I hereby certify that the State Personnel Board made and adopted the preceding resolution at its meeting on October 5, 2004.

VOTE: Elkins, Alvarado, Harrigan, Sheehan and Tom – Aye.

FLOYD SHIMOMURA
Executive Officer
California State Personnel Board